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Technology Law Intellectual Property LawFax Transmittal

Date March 24, 2003
Our File 33956-0049
To Cynthia M. Kratz
Company Assistant Commissioner for Patents
Fax number 1 (703) 308-6459
From David J. Heller
Number of pages including this one 7
Original _____ By Mail _____ By Courler ☒ Not Sent

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Legal Staff
International Division

Message

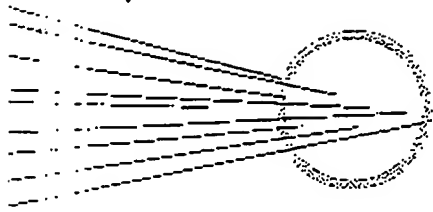
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March 24, 2003

BY FACSIMILE: 1 (703) 308-6459Assistant Commissioner for Patents
BOX PCT
Washington, DC 20231
U.S.A.Attention: Cynthia M. Kratz
PCT Legal Office

Dear Sirs:

Re: "RENEWED REQUEST UNDER 37 CFR 1.42"
UNITED STATES : Patent Application No. 10/070,503
National Entry of Inter. Patent Appl. No. PCT/CA00/01027
Inter. Filing Date: September 27, 2000
Applicants: Howard Kaplan (deceased) et al.
Title: ENHANCED PHAGE DISPLAY LIBRARIES OF
HUMAN VH FRAGMENTS AND METHODS FOR
PRODUCING SAME
Our File: 33956-0049

This is in response to the Decision on Petition under 37 CFR 1.42 dated December 24, 2002.

Request for status under 37 CFR 1.42 was dismissed without prejudice, because, although the Declaration identifies Carol Grad as the legal representative for the deceased inventor Howard Kaplan, the Declaration is not executed by Ms. Grad. Furthermore, the Declaration also does not identify the country of citizenship, residency and mailing address for both the legal representative and the deceased inventor.

The applicant respectfully requests reconsideration, in view of the present enclosures:

- (a) An amended Declaration, Power of Attorney, clearing stating the country of citizenship, residency address, and mailing address for both the deceased inventor and legal representative; and
- (b) The USPTO is hereby informed that the legal representative for the inventor, Carol Grad, refuses to sign the Declaration, Power of Attorney.

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Assistant Commissioner for Patents

The legal representative of the deceased inventor has refused to sign the Declaration, Power of Attorney.

Pursuant to 35 U.S.C. 118, whenever an inventor refuses to execute an application for patent, a person who shows sufficient proprietary interest in the matter, may make application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

It is respectfully submitted that, as the deceased inventor cannot execute the Declaration, Power of Attorney, and as the legal representative for the deceased inventor refuses to execute the Declaration, Power of Attorney, it is appropriate that the application continue, in order to preserve the rights of other inventors.

Favourable reconsideration is respectfully requested.

Yours very truly,

HOWARD KAPLAN (deceased) et al.

By 
David J. Heller, Reg. No. 43,384

DJH:lc
Encl.